



STATE OF WASHINGTON

DEPARTMENT OF LABOR AND INDUSTRIES

*Prevailing Wage*

PO Box 44540 • Olympia, Washington 98504-4540  
360/902-5335 Fax 360/902-5300

**NOTICE OF VIOLATION**

**THIS NOTICE IS APPEALABLE PURSUANT TO WAC 296-127-160.  
FAILURE TO APPEAL WITHIN 30 DAYS OF THE ISSUANCE  
OF THIS NOTICE WILL WAIVE APPEAL RIGHTS.**

PW Notice of Violation No. **NOV181201**

December 17, 2018

Glacier Northwest  
UBI No. 601301145  
Contractor Registration No. N/A  
5975 E. Marginal Way  
Seattle, WA 98134

**Certified Mail Number**  
**9489 0090 0027 6077 8710 37**

Fidelity and Deposit Company of Maryland/  
Zurich American Insurance Company  
Bond No. PRF09036752 & 09034789  
1400 American Lane  
Schaumburg, IL 60196

**Certified Mail Number**  
**9489 0090 0027 6077 8710 44**

Liberty Mutual Insurance Company  
Bond No. 015032331  
175 Berkeley Street  
Boston, Massachusetts 02116

**Certified Mail Number**  
**9489 0090 0027 6077 8710 51**

Travelers Casualty and Surety Company of  
America  
Bond No. 105524367  
One Tower Square  
Hartford, CT 06183

**Certified Mail Number**  
**9489 0090 0027 6077 8710 68**

Federal Insurance Company  
Bond No. 82060790  
15 Mountain view Rd.  
Warren, NJ 07059

**Certified Mail Number**  
**9489 0090 0027 6077 8710 75**

Safeco Insurance Company of America  
Bond No. 6743260  
Safeco Plaza  
1001 Fourth Avenue  
Seattle, WA 98154

**Certified Mail Number**  
**9489 0090 0027 6077 8710 82**

**RE: PERFORMANCE UNDER PUBLIC WORKS CONTRACT SUBJECT TO  
PREVAILING WAGE—**

<b>PROJECT:</b>	<b>SR 99 BORED TUNNEL PROJECT</b>
<b>CONTRACT NUMBER:</b>	<b>7999</b>
<b>BID DUE DATE:</b>	<b>10/28/2010</b>
<b>AWARD DATE:</b>	<b>12/17/2010</b>
<b>AWARDING AGENCY:</b>	<b>WASHINGTON STATE DEPARTMENT</b>
<b>OF TRANSPORTATION</b>	
<b>PRIME CONTRACTOR:</b>	<b>SEATTLE TUNNEL PARTNERS – A JOINT VENTURE</b>
<b>DATE COMPLAINT FILED:</b>	<b>6/13/2016</b>

I. Violations

A. Failure to Pay Prevailing Wage Violation – RCW 39.12.010, RCW 39.12.020, RCW 39.12.030, RCW 39.12.065, WAC 296-127-011, WAC 296-127-013

Overtime Violation – RCW 49.28.010, RCW 49.28.065, RCW 49.46.130, WAC 296-127-022, WAC 296-128-015(1)

1. The L&I investigation established that 46 (forty-six) of the workers employed by Glacier Northwest were not compensated at the required prevailing rate of wage for the classification of labor performed.
2. The gross amount of unpaid prevailing wages owed to workers on this project was **\$370,666.12**.

3. Attached to and made part of this Notice of Violation is a listing of the affected workers, scope of work classifications, and gross unpaid prevailing wages. (See Attachment A.)
4. Forty-six workers performed job duties on this project under the Operating Engineers (Equipment Operators) scope of work classification (WAC 296-127-01354) and were not compensated for all hours of work at the required journey level rate of \$48.49 per hour.
5. Glacier Northwest did not compensate workers on the project at time and one-half for prevailing wage hours worked in excess of eight per calendar day. L&I received no valid 4/10 work agreements executed between the employer and workers. Additionally, workers did not receive time and one-half for hours worked on Saturdays and double-time for prevailing wage hours worked on Sundays.

B. Failure to File a Statement of Intent to Pay Prevailing Wages – RCW 39.12.040, RCW 39.12.050

1. On June 20, 2016, Industrial Relations Agent Angela MacNeil sent a letter requesting a copy of the employer's approved Intent to Pay Prevailing Wages (Intent) for work performed on the stated public works project.
2. On July 12, 2016 and July 25, 2016, a follow up letters were sent with another request for their approved Intent. As of today's date, an approved Intent has not been provided.

C. Failure to File an Affidavit of Wages Paid – RCW 39.12.040, RCW 39.12.050

1. On June 20, 2016, Industrial Relations Agent Angela MacNeil sent a letter requesting a copy of the employer's approved Affidavit of Wages Paid (Affidavit) for work performed on the stated public works project.
2. On July 12, 2016 and July 25, 2016, a follow up letters were sent with another request for their approved Affidavit. As of today's date, an approved Affidavit has not been provided.

**D. Failure to File Certified Payroll Records – WAC 296-127-320, RCW 39.12.050**

1. On June 20, 2016, Industrial Relations Agent Angela MacNeil sent a letter requesting a copy of their certified payroll records for work performed on the stated public works project.
2. On July 12, 2016 and July 25, 2016, a follow up letters were sent with another request for their certified payroll records. As of today's date, certified payroll records have not been provided.

**II. Penalties**

**A. Civil Money Penalty – RCW 39.12.065**

1. A civil money penalty may be assessed under RCW 39.12.065(3) for failure to pay prevailing wages. The amount of the penalty is \$74,133.22, which represents a 20% civil penalty.

**B. Civil Money Penalty – RCW 39.12.050**

1. A civil money penalty of \$500.00 may be assessed for each false filing or failure to file a Statement to Pay Prevailing Wages and Affidavit of Wages Paid.
  - a. The amount of penalty under RCW 39.12.050(1) is \$500.00, which represents failing to file an Intent.
  - b. The amount of penalty under RCW 39.12.050(1) is \$500.00, which represents failing to file an Affidavit.
2. A civil money penalty of \$500.00 may be assessed for each week of false filing or failure to file certified payroll records.
  - a. The amount of penalty under RCW 39.12.050(1) is \$500.00, which represents failing to file 274 weeks of certified payroll records.

**C. Total Civil Money Penalties Due – RCW 39.12.065, RCW 39.12.050**

1. The total amount owed, including wages and civil penalties, is **\$446,299.34**, which is itemized as follows:
  - a. **\$370,666.12** in unpaid prevailing wages.
  - b. **\$74,133.22** as a civil money penalty for failure to pay prevailing wages.

- c. **\$500.00** for the Statement of Intent to Pay Prevailing Wages violation.
- d. **\$500.00** for the Affidavit of Wages Paid violation.
- e. **\$500.00** for the certified payroll records violation.
- 2. If these penalties are assessed the employer is precluded from bidding on public work contracts until the penalties are paid in full pursuant to RCW 39.12.065(3) and RCW 39.12.050(1).

### III. Hearing and Appeal

#### A. Rights of Employer and Surety – WAC 296-127-150

- 1. Your firm or any of its interested sureties may request a hearing on these violations, the amount of unpaid prevailing wages owed, or the penalties assessed. In the absence of any party filing or a surety filing a request for such a hearing within 30 days of the date of issuance of this Notice, the director shall issue a final, unappealable Order finding the violation did occur, ordering payment of prevailing wages determined by the department as owed and assessing penalties.
- 2. The request for hearing must be in writing and the original and four copies must be filed with the director within 30 days of the department's issuance of the Notice of Violation. The request for hearing must specify:
  - a. The name and address of the parties requesting the hearing;
  - b. The Notice of Violation that is being appealed;
  - c. The items of violation believed to be erroneous; and
  - d. The reasons the Notice of Violation is erroneous.
- 3. The party filing the request for hearing must also serve a copy of the request upon all interested sureties, or, if a surety makes the request, upon all other interested sureties and the violator.
- 4. The request for hearing must be filed with the Director, Department of Labor and Industries, mailing address: P. O. Box 44001, Olympia, WA 98504-4001, physical address: 7273 Linderson Way SW, Olympia, Washington 98501.

### IV. Employee Rights and Employer Penalties Assessed

#### A. No Waiver of Employee Rights and Employer Debarment – WAC 296-127-150, RCW 39.12.065, RCW 39.12.050

- 1. An employee cannot, by contract or agreement, waive the right to receive the prevailing wages required under the Public Works Act.

2. In the event that the employer is found to have violated the Public Works Act by failing to pay the required prevailing rate of wage, the employer will have a "strike" toward debarment under RCW 39.12.065(3). If the employer is found to have violated the Prevailing Wage Act by failing to pay the required prevailing rate of wage for a second time within a five-year period from the date this violation becomes final, the employer will be precluded from bidding on public works contracts for two years pursuant to RCW 39.12.065(3).
3. In the event that the employer is found to have violated the Public Works Act by filing false documents and failing to file documents, the employer will have a "strike" toward debarment under RCW 39.12.050(1). If the employer is found to have filed false documents or failed to file documents (i.e., Statement of Intent to Pay Prevailing Wages, Affidavit of Wages Paid Statement, or certified payroll), for a second time within a five-year period from the date this violation becomes final, the employer will be precluded from bidding on public works contracts for one year pursuant to RCW 39.12.050(2).

Issued on this 17th day of December, 2018



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Jim Christensen, Program Manager/Industrial Statistician  
Prevailing Wage Program  
Department of Labor and Industries

cc: Washington State Department of Transportation, Awarding Agency  
Seattle Tunnel Partners, Prime Contractor  
Josh Swanson, Interested Party  
Amanda Goss, Assistant Attorney General  
Chris Bowe, Assistant Director, Fraud Prevention and Labor Standards  
Russ Hauss, Compliance Specialty Supervisor  
Angela MacNeil, Industrial Relations Agent

**ATTACHMENT A**

**PROJECT:** SR 99 Bored Tunnel Project  
**CONTRACT NO.:** 7999  
**AWARDING AGENCY:** Washington State Department of Transportation  
**PRIME CONTRACTOR:** Seattle Tunnel Partners – A joint venture

<b>Name of Worker(s)</b>	<b>Prevailing Wage Scope of Work Classification(s)</b>	<b>Gross Unpaid Prevailing Wages</b>
	Operating Engineer (Power Equipment)	\$3,751.50
	Operating Engineer (Power Equipment)	\$1,290.05
	Operating Engineer (Power Equipment)	\$489.48
	Operating Engineer (Power Equipment)	\$3,019.18
	Operating Engineer (Power Equipment)	\$22,256.94
	Operating Engineer (Power Equipment)	\$859.29
	Operating Engineer (Power Equipment)	\$1,233.60
	Operating Engineer (Power Equipment)	\$133.84
	Operating Engineer (Power Equipment)	\$4,555.13
	Operating Engineer (Power Equipment)	\$128.70
	Operating Engineer (Power Equipment)	\$4,953.57
	Operating Engineer (Power Equipment)	\$568.96
	Operating Engineer (Power Equipment)	\$1,876.52
	Operating Engineer (Power Equipment)	\$940.38
	Operating Engineer (Power Equipment)	\$25,075.93
	Operating Engineer (Power Equipment)	\$171.47
	Operating Engineer (Power Equipment)	\$333.00

	Operating Engineer (Power Equipment)	\$365.61
	Operating Engineer (Power Equipment)	\$2,791.35
	Operating Engineer (Power Equipment)	\$9,114.20
	Operating Engineer (Power Equipment)	\$88.94
	Operating Engineer (Power Equipment)	\$103.51
	Operating Engineer (Power Equipment)	\$7,699.86
	Operating Engineer (Power Equipment)	\$30,572.30
	Operating Engineer (Power Equipment)	\$23,249.75
	Operating Engineer (Power Equipment)	\$3,113.38
	Operating Engineer (Power Equipment)	\$931.03
	Operating Engineer (Power Equipment)	\$260.26
	Operating Engineer (Power Equipment)	\$24,774.30
	Operating Engineer (Power Equipment)	\$2,656.48
	Operating Engineer (Power Equipment)	\$10,282.59
	Operating Engineer (Power Equipment)	\$21,494.70
	Operating Engineer (Power Equipment)	\$16,057.73
	Operating Engineer (Power Equipment)	\$8,891.20
	Operating Engineer (Power Equipment)	\$1,143.84
	Operating Engineer (Power Equipment)	\$14,343.08
	Operating Engineer (Power Equipment)	\$5,721.13
	Operating Engineer (Power Equipment)	\$30,249.13
	Operating Engineer (Power Equipment)	\$129.15
	Operating Engineer (Power Equipment)	\$209.60

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	Operating Engineer (Power Equipment)	\$24,458.37
	Operating Engineer (Power Equipment)	\$1,504.87
	Operating Engineer (Power Equipment)	\$21,922.36
	Operating Engineer (Power Equipment)	\$1,584.96
	Operating Engineer (Power Equipment)	\$30,132.63
	Operating Engineer (Power Equipment)	\$5,182.27
<b>TOTAL UNPAID PREVAILING WAGES =</b>		<b>\$370,666.12</b>

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### **CERTIFICATE OF MAILING**

I certify that on this day I caused this Notice of Violation to be mailed by delivering it to Consolidated Mail Services for placement in the United States Postal Service for certified mail and/or first class mail delivery, as indicated, postage prepaid, to the parties listed below.

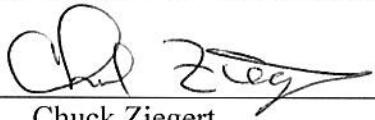
Glacier Northwest Inc. 5975 Marginal Way S. Seattle, WA 98134	CERTIFIED MAIL NUMBER 9489 0090 0027 6077 8710 37  and FIRST CLASS MAIL
Davis Grimm Payne & Marra Attn: John Payne 701 Fifth Ave, Suite 4040 Seattle, WA 98104	CERTIFIED MAIL NUMBER 9489 0090 0027 6077 8710 99  and FIRST CLASS MAIL
Fidelity and Deposit Company of Maryland/ Zurich American Insurance Company Bond No. PRF09036752 &09034789 1400 American Lane Schaumburg, IL 60196	CERTIFIED MAIL NUMBER 9489 0090 0027 6077 8710 44  and FIRST CLASS MAIL
Liberty Mutual Insurance Company Bond No. 015032331 175 Berkeley Street Boston, Massachusetts 02116	CERTIFIED MAIL NUMBER 9489 0090 0027 6077 8710 51  and FIRST CLASS MAIL
Travelers Casualty and Surety Company of America Bond No.105524367 One Tower Square Hartford, CT 06183	CERTIFIED MAIL NUMBER 9489 0090 0027 6077 8710 68  and FIRST CLASS MAIL
Federal Insurance Company Bond No. 82060790 15 Mountain view Rd. Warren, NJ 07059	CERTIFIED MAIL NUMBER 9489 0090 0027 6077 8710 75  and FIRST CLASS MAIL

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Safeco Insurance Company of America Bond No. 6743260 Safeco Plaza 1001 Fourth Avenue Seattle, WA 98154	CERTIFIED MAIL NUMBER 9489 0090 0027 6077 8710 82 and FIRST CLASS MAIL
Washington State Department of Transportation Attn: Dawn McIntosh 999 3 <sup>rd</sup> Ave Suite 2400 Seattle, WA 9814-4018	FIRST CLASS MAIL
Seattle Tunnel Partners 999 3 <sup>rd</sup> Ave Suite 2424 Seattle, WA 98104	FIRST CLASS MAIL

Dated at Tumwater, Washington, on this 17<sup>th</sup> day of December, 2018

DEPARTMENT OF LABOR AND INDUSTRIES

By:   
Chuck Ziegert  
Industrial Relations Specialist